



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW CONSIDERATION DECISION

Dispute Codes: FF MND MNR MNSD

Introduction

This is an application by the landlord for a review of a decision and order of the director dated August 9, 2013.

The landlord applied for a review on the grounds that she has new and relevant evidence that was not available at the time of the original hearing; and she has evidence that the director's decision or order was obtained by fraud.

Issues

Has the landlord provided sufficient evidence to support one of the indicated grounds for review?

Facts and Analysis

Original Hearing and Decision

In the decision dated August 9, 2013, the arbitrator considered all of the testimony and other evidence of the landlord and tenant and found that the tenant's evidence was more credible than that of the landlord. The arbitrator found that the landlord had extinguished her right to claim the security and pet deposits, and therefore the tenants were entitled to double recovery of the deposits, less \$150 of the landlord's claim which the arbitrator allowed. The remainder of the landlord's application was dismissed.

Landlord's Submissions

In the application for review, the landlord stated that the new and relevant evidence was the original of the note the landlord gave the tenants, which did not say "Move Out Inspection," and the original note from the tenant as to the move-in condition.

In regard to the allegation of fraud, the landlord submitted that the tenants printed "Move Out Inspection" on the landlord's note, and the tenants clearly knew that the inspection

would take place on May 22, 2013 at 4:00 p.m., which contradicts their evidence in the hearing.

Analysis on Review

The additional evidence that the landlord submitted in her review application is not new and could have been submitted as evidence in the original hearing. The landlord is merely attempting to re-argue the same issues she raised in the original hearing. I therefore find that the landlord is not entitled to a review on the ground of new and relevant evidence.

In regard to the claim of fraud, I find that the landlord's submissions in this application for review consideration merely consist of arguments that the landlord had the opportunity to present during the hearing. It is clear from the decision dated August 9, 2013 that both the landlord and the tenant provided their evidence, and the arbitrator preferred the evidence of the tenant over that of the landlord. The fact that the landlord disagrees with the conclusion reached by the arbitrator does not amount to fraud. I therefore do not accept the landlord's claim that the arbitrator's decision was obtained by fraud.

Decision

I dismiss the application for review and confirm the original decision and order of August 9, 2013.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: October 24, 2013

Residential Tenancy Branch